Insider Trading II

Prepared Remarks for U.S. Attorney Preet Bharara

November 5, 2009

Good afternoon. My name is Preet Bharara, and I am the United States Attorney for the Southern District of New York.

When we announced our first arrests three weeks ago, I said this case should be a wake-up call for Wall Street. Well, today the alarm bells have only grown louder.

In another step in our ongoing investigation, we have unsealed eight charging documents, naming 14 additional defendants.

Collectively, these individuals are charged with gaming the system to the tune of an additional $20 million in profits from illegal insider trading. That is on top of the six defendants we charged three weeks ago with making similar profits of about $20 million. So, that is $40 million in total.

Most notably, during the past several weeks, five of these new defendants have pleaded guilty right here in Manhattan federal court to insider trading charges. They are:

1. Steven Fortuna, a former Managing Director of S2 Capital, a Boston hedge fund;

2. Ali Far, founder of a hedge fund called Spherix Capital;

3. Richard Choo-Beng Lee, former president of the Spherix hedge fund;

4. Roomy Khan, a former consultant to a New York hedge fund; and

5. Gautham Shankar, a trader at the Schottenfeld Group, a broker-dealer in New York.

Among the nine other defendants charged today are principals and stock buyers at trading firms, a lawyer, and corporate insiders. On a variety of stocks — from Hilton to Avaya to 3Com to Axcan and Kronos — these nine defendants allegedly engaged in insider trading activity to turn profits of approximately $11 million.

I am again joined today by our two law enforcement partners in this case: Rob Khuzami, the Director of Enforcement for the United States Securities and Exchange Commission, and Joe Demarest, the Assistant Director in Charge of the New York Division of the FBI.

I am also joined by Ray Lohier, the Chief of this Office's Securities and Commodities Fraud Task Force, and the AUSAs handling the majority of the prosecutions that we are announcing today — Andy Fish, Marc Litt, Reed Brodsky, Jon Streeter, Josh Klein, and Andrew Michaelson.

Let me spend a moment on the schemes charged today.

[Explanation of 2 Visuals]

Now, as the second chart shows, it would be a mistake to think that this investigation is focused only, or even principally, on hedge funds. We have gone far beyond that. In fact, this investigation goes to the very heart of fair play in the business world.

We're not just talking about aggressive hedge fund traders who were trying to get an edge – someone had to give them that illegal edge. It takes two to tango.

As we allege in these complaints and the previous ones, those "someones" were unscrupulous insiders with connections to some of the best known companies in the world.

The casual betrayal of corporate secrets by insiders threatens the integrity of our markets and victimizes the companies they owe a duty to honestly represent. It makes a mockery of our system.

I expect one of you will ask just how pervasive is insider trading? Is this just the tip of the iceberg? We don't have an answer yet. But we aim to find out.

How will we find out? We will continue to use every aggressive law enforcement tool available to us – that means wiretaps, confidential informants, cooperating witnesses, and other means.

Since our first arrests several weeks ago, the question has been asked: Why do you have to resort to wiretaps and other methods traditionally reserved for the mob and narcotics traffickers?

One answer is provided in today's complaints. As we allege, some of the defendants – taking a page from the drug dealer's playbook – deliberately used anonymous hard-to-trace pre-paid cellphones in order to avoid detection by law enforcement.

What's more, some defendants allegedly discussed falsifying company files by stuffing them with unread research reports meant to justify – after the fact – trades that were in reality based on material nonpublic information.

When sophisticated business people begin to adopt the methods of common criminals, we have no choice but to treat them as such.

Let me end by making one thing clear: No one is trying to vilify Wall Street or demonize corporate America.

But there are rules, and there are laws. And no one is above the law. If you cheat, there are consequences. If you are a wealthy trader or a rich corporate executive, you are not special; you don't get to operate under a different set of rules.

So let me say this: if criminal activity is your business model, then business as usual has to stop.

To date, we have arrested 20 people and alleged illegal profits of $40 million. Five have already pleaded guilty. But we are not finished. The investigation continues.

If you or someone you know has been cheating the system by trading on inside information, you should call us. You can call the SEC's tip line or the FBI's complaint number.

I urge you to knock on our door before we come knocking on yours.

It is my pleasure to welcome back Robert Khuzami, Director of Enforcement at the SEC.